

Message Text

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ACTION EA-09

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TO SECSTATE WASHDC PRIORITY 9694

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EO 11652: N/A

TAGS: PINT, KS

SUBJECT: SUPREME COURT REJECTS KIM TAE-CHUNG APPEAL OF CON-
VICTION OF ELECTION LAW VIOLATION

REF: SEOUL 0886 (FEB. 76)

1. ON SEPTEMBER 20 SUPRIME COURT REJECTED APPEAL OF KIM TAE CHUNG OF HIS CONVICTION OF ELECTION LAW VIOLATION (SEE REFTEL). KIM HAD BEEN CONVICTED BY SEOUL DISTRICT COURT ON DECEMBER 12, 1975 FOR VIOLATIONS OF THE ELECTION LAWS IN THE 1967 AND 1971 CAMPAIGNS. IN HIS APPEAL KIM ARGUED THAT OLD LAW "CONTRADICTS" PROVISIONS IN THE 1972 YUSHIN CONSTITUTION AND THAT PROVISIONS IN NEW ELECTION LAW WHICH PROVIDE FOR RETROACTIVE PUNISHMENT OF VIOLATORS OF THE OLD LAW ARE UNCONSTITUTIONAL.

2. KIM ASKED COURT TO DIRECT APPEAL TO ROK CONSTITUTIONAL COMMITTEE FOR RULING. CONSTITUTIONAL COMMITTEE SET UP UNDER YUSHIN CONSTITUTION (ARTICLE 109) TO JUDGE CONSTITUTIONALITY OF LAW UPON REQUEST OF COURT. COMMITTEE IN FACT NOT FUNCTIONING AND SUPREME COURT DECISION INDICATES THAT COURT CONSIDERED ITSELF COMPETENT TO JUDGE ISSUE AND THAT NO REQUEST FOR RULING WILL BE FORWARDED TO CONSTITUTIONAL
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COMMITTEE. THUS IT APPEARS THAT FINAL CURTAIN HAS FALLEN

ON KIM'S ELECTION VIOLATION TRIAL.

3. KIM HAD BEEN SENTENCED TO ONE YEAR'S IMPRISONMENT
WITHOUT HARD LABOR FOR THIS CONVICTION. WHILE COURT HAD
ISSUED VERDICT OF CONVICTION, IT HAS NOT YET ORDERED
HIM TO ACTUALLY SERVE THE TERM IMPOSED. KIM IS NOW IN
PRISON IN CONNECTION WITH MYONGDONG CASE AND SUPREME COURT
RULING WILL HAVE NO IMMEDIATE IMPACT ON HIS SITUATION.
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